

CIVIL AFFAIRS: STATUS AND FACILITIES TO BE ACCORDED U.S. FORCES ENGAGED IN OCCU- PATION OF GERMANY AND AUSTRIA

*Exchange of notes at Brussels April 29, 1948, with text of memorandum
of agreement
Entered into force April 29, 1948; operative from May 8, 1945
Obsolete*¹

Department of State files

*The Minister of Foreign Affairs to the American Chargé d'Affaires
ad interim*

[TRANSLATION]

No. 452-611-2322

BRUSSELS, April 29, 1948

MR. CHARGÉ D'AFFAIRES:

The negotiations which have taken place between the representatives of the Belgian and American Governments concerning the status and facilities to be accorded in Belgium to American forces taking part in the occupation of Germany and Austria have resulted in an agreement the terms of which are contained in the annexes hereto, the French and English texts being equally authentic.

I am happy to inform you that the Belgian Government has indicated its agreement with respect to these texts, subject to the approval of Parliament.

I should be grateful if you would notify me of the agreement of the Government of the United States of America with respect to the contents of these documents.

I propose that this note, together with your reply, be considered as constituting an agreement between our two Governments which will enter into force on the date of the exchange of the present notes, subject to approval

¹ By the exchange of notes of May 6 and Aug. 7, 1969, the Government of the United States and the Government of Belgium agreed that the agreement was no longer in force.

thereof by Parliament.² The Belgian Government will inform the United States Government of the date of that approval.

Accept, Mr. Chargé d'Affaires, the assurance of my most distinguished consideration.

P. H. SPAAK

Mr. HUGH MILLARD,
Chargé d'Affaires,
Embassy of the United States of America,
Brussels.

MEMORANDUM OF AGREEMENT REGARDING THE STATUS AND FACILITIES
ACCORDED IN BELGIUM TO THE UNITED STATES FORCES ENGAGED IN THE
OCCUPATION OF GERMANY AND AUSTRIA

The Government of the United States of America and the Government of Belgium,

Considering that the continued use of Belgian territory will be necessary to some extent and for some time to come to facilitate the task of the Commander in Chief, European Command (hereinafter referred to as the Commander in Chief), in connection with the military occupation of Germany or Austria;

Desiring to make appropriate provision for the United States Armed Forces temporarily present in or passing through Belgium and to safeguard all equipment and stores belonging to and destined for the use or distribution by such forces both inside and outside Belgium, in consequence of the Allied arrangements for the occupation and control of Germany or Austria, or for any other temporary purposes which have arisen out of the war against Germany;

Have agreed as follows:

ARTICLE 1

The United States Forces shall have full right to pass through Belgian territory when on their way to or from the United States area in Germany or Austria or temporary United States installations in formerly enemy-occupied territories, including the right to navigate in Belgian territorial waters and to have passage for aircraft over Belgium, and landing rights in Belgium subject to provisions of Article 2, the right to maintain in Belgium such stores, services and personnel as may be necessary for the maintenance of the United

² In a note to the American chargé d'affaires at Brussels July 11, 1949, the Minister of Foreign Affairs stated that approval of the agreement had not been requested of the Belgian Parliament, that, after careful examination of the question, the Belgian Government believed that in the present circumstances it did not seem necessary from a practical point of view to have recourse to this procedure, and that instructions had been given to the administration to comply with the provisions of the agreement.

States Forces, and the right to have rest centers for individuals on leave or camps for the accommodation of units of the forces temporarily released from occupation duty. The necessary technical measures for the use of such rights shall be taken by the competent Belgian authorities in consultation with the Commander in Chief.

ARTICLE 2

(a) The United States Forces shall be accorded within reasonable limits all facilities afforded by Belgian ports (including dockyards and ship repairing facilities), airfields, railways, inland waterways, roads, and postal services they may from time to time request.

(b) In particular the Belgian Government agrees that, for mutual convenience, special areas in Belgian ports and at certain airfields may be designated by them for the exclusive use of the United States Forces on conditions determined by the competent Belgian authorities. Such areas shall remain under Belgian administration, but the Commander in Chief shall have the right to participate in the policing of the areas and in the control of the operation of port or airfield facilities situated therein.

ARTICLE 3

(a) Subject to the provisions of paragraph (c) and paragraph (d) of this Article, lands and buildings in Belgium which have been made available to the United States Forces prior to the coming into force of this agreement may be retained so long as they may be required for the essential purposes of the United States Forces.

(b) The Belgian Government shall provide for the United States Forces, within the limits permitted by Belgian essential requirements, such lands, buildings and appurtenances and storage space as may from time to time be requested for the accommodation of service personnel and the storage of equipment, stores, and supplies.

(c) Whenever the Belgian Government shall make available to the United States Forces, in substitution for any lands, buildings, or storage space occupied by them, other accommodation which is suitable for the purposes for which it is required by the United States Forces, the premises then occupied shall be evacuated within the time required for the transfer or transportation of the personnel, equipment, stores, and supplies into the new accommodation, provided, however, that no such movement shall be required without prior consultation between the Commander in Chief and the competent Belgian authorities as to its practicability.

(d) Without prejudice to the provisions of paragraph (c) above, any lands, buildings, or storage space occupied by the United States Forces in excess of the military needs resulting from the occupation of Germany or Austria by the United States of America shall be evacuated as soon as possi-

ble and not later than six months after the date of the conclusion of the present agreement, provided, however, that such period of six months may be extended by mutual agreement in consideration of unforeseen circumstances which may arise.

ARTICLE 4

(a) In order to meet the technical signal and postal needs of the United States Forces, the following facilities shall be granted to the United States Forces in Belgium, under conditions to be agreed upon in specific technical agreements between the Belgian authorities and the Commander in Chief:

(i) access to Belgian telecommunications, radar, and other communication services, including radio aids, as may be needed for the purpose of the United States Forces of occupation in Germany and of the United States Forces in Belgium;

(ii) the right to construct, maintain, and operate such radio and radar stations and landline communication networks as may from time to time prove necessary for naval, military, or air purposes;

(iii) the right to continue to operate an independent army postal service in Belgium for the benefit of United States Forces serving there.

(b) The competent Belgian authorities shall:

(i) cooperate in regard to the allocation of all frequencies required for radio communication networks and radar installations with the competent authorities representing the United States Forces;

(ii) accord to the United States Forces in Belgium the right to use frequencies which are essential for their purposes.

ARTICLE 5

Arrangements shall be made between the Commander in Chief and the competent Belgian authorities for any discussions as may from time to time appear to be necessary in relation to the continuance of the minimum essential public services and facilities required for the maintenance of the United States Forces in Germany and Belgium.

ARTICLE 6

The United States Forces shall be granted right of way for and access to all military petroleum pipe-lines and installations situated in Belgian territory connected with the distribution of petroleum products to the United States Forces, but no new pipe-lines or installations shall be established or maintained without the agreement of the competent Belgian authorities.

ARTICLE 7

The United States Forces shall have the right to employ local civilian labor in compliance with Belgian law and collective conventions in force and in ac-

cordance with a procedure to be agreed upon by the appropriate Belgian and United States military authorities. The closest cooperation between the United States military authorities concerned and the competent Belgian authorities shall be maintained on all questions relating to working conditions and wages.

ARTICLE 8

The United States Forces shall have the right to procure local produce, supplies, and goods manufactured in Belgium in accordance with a procedure to be agreed upon by the appropriate Belgian and United States military authorities. In order that such procurement may not have an adverse effect upon Belgian economy, the competent Belgian authorities shall notify the United States military authorities of the particular articles in respect of which local purchase by the United States Forces shall from time to time be excluded or restricted.

ARTICLE 9

(a) United States military courts and authorities shall have exclusive criminal jurisdiction over all members of the United States Forces except persons absent without leave who commit offenses under Belgian law, and over all persons of non-Belgian nationality not belonging to the United States Forces who accompany those Forces and are subject to United States military or naval law, provided that the United States Forces may elect not to assume and exercise such jurisdiction in any particular case, and in such event shall inform the competent Belgian authorities and transfer the member of the United States Forces or other person for trial under Belgian law.

(b) The persons of non-Belgian nationality accompanying the United States Forces and subject to United States military or naval law shall be in possession of a pass or identity card issued by the competent United States military authority and establishing their status.

(c) The immunity from jurisdiction hereby provided for implies the obligation to comply with Belgian law as well as to abstain from any political activity and from any commercial activity not consistent with the spirit of the present agreement. Upon violation of such obligations the Belgian Government may request the removal from Belgium of the guilty persons.

ARTICLE 10

(a) The United States Forces shall have the right, for the purpose of maintaining good order and discipline of persons subject to the jurisdiction of United States military and naval law, to police the camps, lands, and buildings reserved for their exclusive use and to employ military police outside those premises. The carrying of arms by members of the United States Forces shall be allowed only when on duty.

(b) The United States Forces shall have the right to use their own guards and police for the protection of their own camps, lands, and buildings re-

served for their exclusive use. Persons who are not subject to the jurisdiction of the United States authorities may be arrested within such camps, lands, and buildings and be detained there by the United States military police when suspected of having committed an offense against the persons, property, or security of the United States Forces therein or against the law of Belgium, but they shall be handed over immediately and in any case within twenty-four hours to the competent Belgian authorities.

(c) The Belgian authorities may arrest and detain persons subject to the jurisdiction of the United States military or naval courts and authorities for offenses or suspected offenses against Belgian law committed outside the camps, lands, and buildings reserved for their exclusive use, but shall hand over such persons as soon as it is established that they come under the exclusive jurisdiction of United States Forces in accordance with the provisions of Article 9 of the present agreement.

ARTICLE 11

(a) The Belgian Government shall make the necessary arrangements for insuring in accordance with Belgian law the trial by Belgian courts of persons subject to Belgian jurisdiction alleged to have committed offenses against the persons, property, or security of the United States Forces.

(b) The United States military authorities shall make the necessary arrangements for insuring in accordance with United States military or naval law the trial by United States military courts or authorities of members of the United States Forces, or of persons accompanying them subject to military or naval law, alleged to have committed offenses against Belgian law.

ARTICLE 12

The competent Belgian authorities and the Commander in Chief shall take the necessary steps within the provisions of Belgian and United States laws respectively for such mutual assistance as may be required for making investigations, collecting evidence, and securing the attendance of witnesses in relation to cases triable under United States military or Belgian jurisdiction.

ARTICLE 13

(a) Claims of individuals, firms and corporations against the United States Government based on incidents occurring in Belgium or the Belgian Congo on or after July 1, 1946, are the responsibility of the United States Government and will be dealt with under pertinent United States laws.

(b) In all cases of traffic accidents in Belgium or in Germany in which the vehicles (or their contents) of the respective Governments are damaged or destroyed, or in which one Government might otherwise assert against the other claim for death, injury or loss (as distinct from the claims of individuals), it is agreed that the respective Governments will each bear their own

losses where they fall and will mutually forbear from asserting any claims against the other. The above will not prevent the formulation of claims against persons for whose negligent acts the respective Governments are not financially responsible. It is understood that mutual forbearance is not limited to cases of damage or injury caused by members of the United States Forces only, but extends to all cases of damage or injury caused by personnel or employees of the respective Governments.

ARTICLE 14

(a) The United States Forces, including organizations accompanying these Forces, and the property belonging to them or to the Government of the United States of America shall be exempt from all Belgian taxation, national and local, whether direct or indirect, including customs duties, excise taxes and stamp taxes, but specifically excluding taxes which are part of the final purchase price of articles purchased in Belgium and which taxes have been paid prior to sale to the United States Forces. The Commander in Chief will take the necessary action to insure that all property subject to such exemption is not sold to the public in Belgium, except as may be agreed upon with the Belgian Government.

(b) The members of the United States Forces and organizations, persons employed by or accompanying those Forces (except those of Belgian nationality), their dependents, and non-Belgian members of their immediate households shall be exempt from direct taxation on their income derived from non-Belgian sources and on their property, except immovable property located in Belgium. Further, such persons shall be exempt from the payment of any customs duty or use tax on personal property brought by them into Belgium, imported by means of Army Postal Service or acquired by them in Belgium from a United States Government agency for their personal use or consumption within reasonable limits, provided that they do not sell or dispose of such property in Belgium. Such persons shall also be exempt from payments of any export tax on personal property imported by them or acquired by them in Belgium and exported by them when transferred from Belgium. They shall, however, be subject without discrimination to excise taxes and tolls on their transactions and activities outside of the scope of their official duties, including taxes or fees payable in connection with the operation of privately owned automobiles. In the event that any such person should die while in Belgium, he shall not be considered a resident of Belgium for the purpose of assessing or collecting any death, estate, or succession tax or duty.

ARTICLE 15

The exercise of customs control by Belgian authorities concerning members of the United States Forces shall be regulated according to separate agreements which have been or in the future may be negotiated between the Belgian Ministry of Finance and the United States military authorities.

ARTICLE 16

The facilities afforded under this agreement to the United States Forces shall, subject to specific agreement with the Belgian Government, be made available to the same extent to organizations which are agencies of the Commander in Chief or of the Government of the United States of America and to civilian officials and government employees present in Belgium on duty with the United States Forces.

ARTICLE 17

(a) The disposal of property which has fallen into the hands of the United States Forces within Belgium and which is still within their possession shall be governed according to separate agreements which have been or in the future may be negotiated between the Belgian Ministry of National Defense and the United States military authorities.

(b) The disposal of property belonging to the United States or to the United States Forces which shall hereafter be declared surplus to the "Office of the Foreign Liquidation Commissioner, United States Department of State", and all other United States government scrap and salvage in Belgium shall be governed according to separate agreements which have been or in the future may be negotiated between the Belgian and the United States authorities.

ARTICLE 18

The cost of any facilities made available in Belgium to the United States Forces as such shall, in so far as they were not covered by the "Memorandum of Understanding between the Government of the United States of America and the Government of Belgium regarding Settlement for Lend Lease, Reciprocal Aid, Plan A, Surplus Property, and Claims", signed at Washington on September 24, 1946,³ be the responsibility of the Government of the United States of America except where otherwise agreed. The conditions of payment on which the various facilities referred to in this agreement are made available to the United States Forces in Belgium, together with other financial questions, shall form the subject of a separate agreement.

ARTICLE 19

(a) The provisions of the present agreement shall, with effect from May 8, 1945, replace those of the memorandum of agreement respecting the arrangements for civil administration and jurisdiction in Belgian territory liberated by an Allied Expeditionary Force, signed on behalf of the United States of America and Belgium on May 16, 1944,⁴ provided that:

(i) any immunity from jurisdiction or taxation in Belgium accorded to

³ TIAS 2064, *ante*, p. 631.

⁴ *Ante*, p. 590.

persons subject to United States military or naval law or to civilian employees of the Government of the United States of America shall be deemed to have continued from May 8, 1945, until the conclusion of the present agreement;

(ii) any action taken by United States military authorities or persons acting under their orders between May 8, 1945, and the conclusion of the present agreement shall, if in conformity with the provisions of the said memorandum of agreement of May 16, 1944, be sanctioned by the present agreement.

(b) The present agreement shall remain in force until December 31, 1948, and thereafter until the expiry of six months from the date of any notice in writing by either high contracting party to the other of his intention to terminate the treaty period.

The American Chargé d'Affaires ad interim to the Minister of Foreign Affairs

No. 1544

BRUSSELS, April 29, 1948

EXCELLENCY:

I have the honor to acknowledge receipt of your note of today's date regarding the status and facilities accorded in Belgium to the United States Forces engaged in the occupation of Germany and Austria.

I wish to inform you that the agreement annexed hereto,⁵ the French and English languages of which shall each be authentic, has been agreed to by the Government of the United States of America.

In accordance with your Excellency's suggestion, my government considers your note and my reply thereto as constituting an agreement between our two governments, which shall become effective on the date of the exchange of these notes, subject to the approval of the said agreement by the Belgian parliament.⁶ It is understood that the Belgian Government will notify the Government of the United States of America of the date of such approval.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

HUGH MILLARD
Chargé d'Affaires, ad interim

His Excellency
Monsieur PAUL HENRI SPAAK
Minister for Foreign Affairs
Brussels.

⁵ For text of memorandum of agreement, see p. 662.

⁶ See footnote 2, p. 662.